

## REMARKS

Claims 1, 5-6, 8, 10, 12-15 are pending in the application; claim 2, 3, 4, 7, 9, 11 are canceled.

### Claim Rejections - 35 U.S.C. 112

Claims 1, 5, 6, 8, 10, 12-15 stand rejected under 35 U.S.C. 112, 2nd paragraph, as being indefinite. The examiner argues that “size providing a finger protection preventing fingers from being pinched” is unclear since the specification does not provide a standard and there are not any dimensions set forth; the size for a toddler would be different than for an adult. As a finger is not a constant unit of measure, it would thus be unclear what size would be sufficient to provide finger protection.

Applicant submits respectfully that according to **MPEP 2173.05(b) Relative Terminology [R-6]** “The fact that claim language, including terms of degree, may not be precise, does not automatically render the claim indefinite under 35 U.S.C. 112, second paragraph. *Seattle Box Co., v. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). Acceptability of the claim language depends on **whether one of ordinary skill in the art** would understand what is claimed, in light of the specification.”.

The risk of getting fingers pinched in the cabinet drawers of the present invention is present when the pullout drawer is rotated by hand and fingers hold onto the corners of the pullout drawer (the widest part) when moving the pullout drawer past the cabinet sidewalls. When looking at Fig. 3 and the gap S, it is apparent that the spacing must be selected such that it is larger than the width of the fingers of an average adult; smaller fingers of a toddler or a youth would be at no risk of being pinched when such a size is provided. It is moreover well known in many industries to employ an average weight or height of humans etc. for sizing and manufacturing doors, elevators, chairs, cars, busses, staircases etc.

The issue in connection with the pullout drawer is therefore simply to determine a large enough size that would accommodate the fingers of an average adult. Any person skilled in the art is aware of the human build and size. A person skilled in the art is capable of and skilled in enough to determine or select an appropriate finger size. A person skilled in the art is also well aware of safety margins etc. to come up with a proper gap size. After all, a human hand or human fingers even for very heavy and/or tall persons will not exceed

e.g. 2 inches in width and not even 1 ½ inches. There are ring size charts, glove size charts, etc. that provide guidance. For scientific purposes, man has been measured and charted. The textile industry has measured and charted man. Even by simply assessing an average finger size of one's coworkers, a person skilled in the art is able to arrive at a suitable gap size.

Reconsideration and withdrawal of the rejection of the claims under 35 USC 112 are respectfully requested.

### **Rejection under 35 U.S.C. 103**

Claims 1, 5, 6, 8, 10, 12-15 stand rejected under 35 U.S.C. 103 (a) as being unpatentable over *Fulterer* and *Graham et al.*

Claim 1 has been amended to now claim that the first locking device blocks a return movement of the frame after reaching the extended pullout position and further blocks the return movement of the frame when the frame is in a first pivot position after rotation from the extended pullout position in the clockwise direction and when the frame is in a second pivot position after rotation from the extended pullout position in the counterclockwise direction. Thus, one and the same locking device is provided to lock the frame or pullout drawer in the extended pullout position, in a first pivot position reached after clockwise rotation, and in a second pivot position reached after counter clockwise rotation. This is described in the specification in paragraph 0032.

*Fulterer* discloses only a device for securing the pullout position and shows no rotation of the frame at all and therefore no locking in any pivoted position.

*Graham et al.* discloses a first locking device (locking pin 38) for locking the slide members 28, 30 so that a return movement is prevented. The pivot positions of the chassis 10 are locked by a separate locking mechanism in the form of the detent block 80 and the crank 100 as shown in Figs. 5, 10, 11, 12.

There is no common locking mechanism that blocks return movement in the extended pullout position as well as in the pivot positions.

Claim 1 as amended is therefore not obvious in view of the cited references.

Reconsideration and withdrawal of the rejection of the claims under 35 USC 103 are therefore respectfully requested.

### **CONCLUSION**

In view of the foregoing, it is submitted that this application is now in condition for allowance and such allowance is respectfully solicited.

Should the Examiner have any further objections or suggestions, the undersigned would appreciate a phone call or **e-mail** from the examiner to discuss appropriate amendments to place the application into condition for allowance.

Authorization is herewith given to charge any fees or any shortages in any fees required during prosecution of this application and not paid by other means to Patent and Trademark Office deposit account 50-1199.

Respectfully submitted on June 13, 2008,

/Gudrun E. Hockett/

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